



**Rule 229.172**

**Accreditation of  
Certified Food Management  
Programs**

**April 2008**

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# **Texas Administrative Code**

**TITLE 25:** HEALTH SERVICES  
**PART I:** DEPARTMENT OF STATE HEALTH SERVICES  
**CHAPTER 229:** FOOD AND DRUG  
**SUBCHAPTER K:** TEXAS FOOD ESTABLISHMENTS

RULE §229.172: Accreditation of Certified Food Management Programs

(a) Purpose. This section is intended to provide the framework for accrediting manager level food safety programs in accordance with the Texas Health and Safety Code (HSC), Chapter 438, Subchapter D. A uniform standard governing the accreditation of food safety programs enhances the recognition of reciprocity among regulatory agencies and reduces the expense of duplicate education incurred when food establishment managers work in multiple regulatory jurisdictions. Education of the food establishment manager provides more qualified personnel, thereby reducing the risk of foodborne illness outbreaks caused by improper food preparation and handling techniques.

(b) Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise.

(1) Accredited--A program approved by the department that meets the standards set forth in this section.

(2) Alternative training methods--Training other than classroom, including but not limited to distance learning, computerized training programs, and correspondence courses.

(3) ANSI-CFP Program Accreditation--The American National Standard Institute (ANSI) and the Conference for Food Protection (CFP) accredits programs as outlined in the CFP: Standards for Accreditation of Food Protection Manager Certification Programs.

(4) Certificate--The documentation issued by the department or an organization that administers a department approved examination verifying that an individual has complied with the requirements of this section.

(5) Certification--The process whereby a certificate is issued.

(6) Certified food manager--A person who has demonstrated that they have the knowledge, skills and abilities required to protect the public from foodborne illness by means of successfully completing a food safety examination as described in this section.

(7) Certified food management program--A program accredited by the department that provides food safety education for food establishment managers and administers an approved examination for certification or recertification purposes.

(A) Certification program--A program whose course work consists of a minimum of 14 hours of instruction on food safety topics which may include traditional or alternative methods of training, including distance education, and at least a one-hour proctored department approved examination.

(B) Recertification program--A program whose course work consists of six hours of instruction on food safety topics, which may include traditional or alternative methods of training, including distance education, and a department approved proctored examination.

(8) Continuing education--Documented professional education or activities that provide for the continued proficiency of a certified food management program instructor.

(9) Department--Department of State Health Services.

(10) Examination administrator--An individual or individuals who are designated in writing to the department, by the licensee, who is responsible for administering food manager certification examinations.

(11) Food--A raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

(12) Food establishment--

(A) Food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(i) such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

(ii) that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(B) Food establishment includes:

(i) an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(C) Food establishment does not include:

- (i) an establishment that offers only prepackaged foods that are not potentially hazardous;
  - (ii) a produce stand that only offers whole, uncut fresh fruits and vegetables;
  - (iii) a food processing plant;
  - (iv) a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law;
  - (v) an area where food that is prepared as specified in subparagraph (C)(iv) of this paragraph is sold or offered for human consumption;
  - (vi) a Bed and Breakfast Limited facility as defined in these rules;
- or
- (vii) a private home that receives catered or home-delivered food.

(13) Law--Applicable local, state and federal statutes, regulations and ordinances.

(14) Licensee--The individual, corporation or company that is licensed by the department to operate certified food management programs.

(15) Person--An association, corporation, individual, partnership or other legal entity, government or governmental subdivision or agency.

(16) Proctor--The examination administrator or a person who is designated to assist the examination administrator.

(17) Psychometric--Scientific measurement or quantification of human qualities, traits or behaviors.

(18) Qualified instructor--An individual whose educational background and work experience meet the requirements for approval as a qualified food management program instructor as described in this section.

(19) Reciprocity--Acceptance by state and local regulatory authorities of a Department approved food manager certificate.

(20) Regulatory authority--The local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

(21) Secure--Access limited to the certified food manager licensee or examination administrator.

(22) Single entity--A corporation that educates only its own employees.

(23) Sponsor--An individual designated in writing to the department, by the licensee, as the person responsible for administrative management of the program.

(24) Traceable means--A method of submitting documents, which can be tracked in the event of loss or delay.

(25) Two-Year Renewal Certificate--The certificate issued by the department from May 6, 2004 to April 24, 2008, verifying that a certified food manager has completed the application and submission of fees for renewal of a department issued certificate.

(c) Certified food manager.

(1) Certified food manager responsibilities. Responsibilities of a certified food manager include:

(A) identifying hazards in the day-to-day operation of a food establishment that provides food for human consumption;

(B) developing or implementing specific policies, procedures or standards aimed at preventing foodborne illness;

(C) coordinating training, supervising or directing food preparation activities, and taking corrective action as needed to protect the health of the consumer;

(D) training the food establishment employees on the principles of food safety; and

(E) conducting in-house self-inspections of daily operations on a periodic basis to ensure that policies and procedures concerning food safety are being followed.

(2) Certification by training and food safety examination. To be certified, a food manager must complete an accredited certification or recertification program and pass an examination that has been administered through a department accredited food management program.

(3) Certificate reciprocity. Department issued food management certificates shall be recognized statewide by regulatory authorities as the only valid proof of successful completion of a department accredited food management course.

(4) Certificate availability. The original food manager certificate shall be conspicuously posted at each food establishment.

(d) Licensing of certified food management program licensee. The department shall issue a license of accreditation to each certified food management program licensee who has demonstrated compliance with this section. A license issued under these rules will expire two years from the date of issuance. This license is not transferable on change of ownership, name, or site location.

(1) Application. A person wishing to apply for a certification or recertification certified food management program license shall submit a completed application to the department.

(2) Certified food management program license fee. The completed license application shall include the appropriate non-refundable fee as specified in subsection (p)(1) of this section.

(3) Examination security agreement. The licensee shall submit a signed security agreement for each examination administrator using a department examination.

(4) Sponsor. The licensee may designate a program sponsor as the person responsible for the administrative management of the program.

(5) Qualified instructor. A list of all qualified food management program instructors who plan to teach an accredited certification or recertification course shall be provided to the department. A completed instructor application, along with other necessary documentation must be submitted for all non-qualified instructors.

(6) Training methods. Training methods shall be designated on the application. Documentation must be provided to the department verifying that the time required to complete a training program is equivalent to 14 hours of training for certification and six hours for recertification.

(7) Certification examination. Department approved examination(s) utilized by the certified food protection management programs shall be designated on the completed application.

(e) Licensing of single entity certified food management programs. In addition to the licensing requirements as specified in subsection (d) of this section, a corporation wishing to use a single entity option, which defers course length and topic requirements as specified HSC, §438.043(a), shall submit to the department:

(1) a copy of the course guide; and

(2) an outline of each topic and sub-topics.



(f) Responsibilities of a licensee.

(1) Compliance with certified food management program law and rules. The licensee is responsible for compliance with applicable certified food management program law and rules.

(2) Payment of fees. All fees shall be non-refundable and paid as specified in subsection (p) of this section.

(3) Certified food management program course content. All food management programs must be taught utilizing the training and time requirements in Health and Safety Code (HSC), §438.043(1), (2), and (3).

(4) Change of sponsor. The licensee shall notify the department in writing of the name of the new program sponsor.

(5) Change of examination administrator. The licensee shall submit a signed security agreement for each new examination administrator prior to administering the department examination. New examination administrators must receive instruction on administrative responsibilities for examination security and processing.

(6) Change of qualified instructor. The licensee shall ensure that only a department qualified instructor serves as the instructor for the food management program. All new instructors must complete the application for new instructors that must be submitted by the licensee to the department with the applicable documentation. All new instructors must receive instruction on the applicable law and rules and administrative responsibilities.

(7) Submission of answer sheets. The licensee shall ensure that the answer sheets used for computerized grading shall be submitted to the department by traceable means. The completed answer sheets must be received by the department within seven working days of the examination date.

(g) Requirements for qualification of instructors. The instructors for all food management programs shall be department qualified prior to teaching a class. The instructors for all certified food management programs shall meet the qualifications in these rules. Instructors meeting these qualifications shall be approved for the two-year permit term of the certified food management program licensee. The completed application form shall be submitted to the department through the accredited certified food management program licensee.

(1) New instructors. A completed application for new instructors must be submitted by the program licensee to the department with the following documentation:

(A) the completed and signed application form;

(B) a copy of a valid food management certificate; and

(C) verification of education or experience in food safety documented by one of the following:

(i) an associate or higher college degree from an accredited institution in a major related to food safety or environmental health, evidenced by a copy of the candidate's diploma or transcript;

(ii) five years of food establishment work experience as a food manager verified in an attached resume; or

(iii) two years of regulatory food inspection experience verified in an attached resume.

(2) Nationally accredited program instructors. Nationally accredited program instructors who have met the minimum standards as set forth by this section shall be given reciprocity when instructing and administering an ANSI-CFP Program Accreditation examination.

(h) Responsibilities of qualified instructors.

(1) Compliance with certified food management program law and rules. All qualified instructors are responsible for compliance with applicable certified food management program law and rules.

(2) Training requirements. All qualified instructors are responsible for instructing the course content as specified in subsection (f)(3) of this section, and meeting the training time requirements as specified in subsection (d)(6) of this section.

(3) Examination administrator. Instructors serving as the examination administrator must complete an examination security agreement prior to administering a department examination.

(i) Requirements for the renewal of qualified instructors. In order to renew an instructor's qualification the program licensee must comply with the requirements of this subsection.

(1) Contact hours for continuing education. Certified food management programs shall submit a renewal application and documentation of five contact hours of continuing education for each instructor during the two-year program license period to maintain qualification as a certified food manager program instructor.

(2) Accepted continuing education topics. Continuing education topics may include areas in food safety or instruction enhancement.

(3) Verification of continuing education. The following may be used for continuing education:

(A) a certificate of completion for a course or seminar with the participant's name, course name, date and number of contact hours earned;

(B) a college transcript with course description; or

(C) other documentation of attendance as approved by the department.

(j) Responsibilities of the examination administrators.

(1) Compliance with certified food management program laws and rules. The examination administrator is responsible for compliance with the certified food management program laws and rules applicable to examination administration.

(2) Examination security agreement. An examination administrator must complete, sign and date a security agreement and submit to the department through the certified food management program licensee. The department may not issue examinations to an examination administrator who does not have a signed security agreement on file with the department.

(3) Examination security. The examination administrator shall provide examination security at the examination site. All security measures shall be met and maintained at all times during examination storage, administration and issuance as described in this section.

(4) Submission of examination booklets and answer sheets. The examination administrator shall submit the examination booklets and answer sheets used for computerized grading via traceable means along with department forms as required. The examination booklets, completed answer sheets and required forms must be received by the department within seven working days of the examination date.

(5) Examination results. Candidates shall be informed of the process for receiving their certificate upon passing the examination. Candidates shall be informed of the reexamination process, in the event of examination failure.

(6) Replacement process for candidate certificate. Candidates shall be informed of the process for replacing lost or damaged certificates.

(k) Certified food manager certificates.

(1) Certificate issuance. Certified food manager certificates for candidates who complete an accredited program and pass the department examination will be mailed directly to the candidate.

(2) Certificate period. A certified food manager certificate issued by the department under this section shall be valid for five years from the date of passing the

examination. All certificates issued prior to the effective date of these rules will expire on the expiration date as stated on the certificate.

(3) Two-year renewal certificate. Food manager certificates issued by the department from May 6, 2004 to April 24, 2008, must be renewed every two years and may be renewed two times.

(4) Recertification. Candidates may become recertified by taking a recertification class and passing a department approved examination, or by passing an examination as described in §229.176(h)(5) of this title (relating to Certification of Food Managers).

(5) Department certificate replacement. An individual requesting a certified food manager certificate replacement must submit a completed written application to the department with the appropriate non-refundable fee. Replacement certificates will bear the same expiration date as the original certificate.

(6) Certification through single entity corporations. Candidates from accredited single entity corporations will receive food management certificates as described in this section, except that the food management certificate shall:

(A) clearly indicate that the certificate is for the single entity only;

(B) be recognized by regulatory authorities for only that single entity; and

(C) not receive reciprocity or recertification.

(l) Department examination criteria. The department examination shall meet accepted psychometric standards for reliability, validity and passing score. The department certification and recertification examinations shall consist of 75 statistically valid questions to be administered at one time following the required training which precedes the examination.

(m) National examination criteria. National food manager examinations recognized by the ANSI-CFP Program Accreditation shall be considered department approved examinations.

(n) Site requirements for administration of the department examination and national examinations. Examination sites utilizing the department examination or a national examination must comply with all legal requirements for safety, health, and accessibility for all qualified candidates. Accommodations, lighting, space, comfort, and workspace for taking the examination must allow all candidates to perform at their highest level of competency. Requirements at each site include but are not limited to:

(1) accessibility in accordance with the requirements of the Americans with Disabilities Act must be available for all qualified examinees;

(2) sufficient spacing between each examinee in the area in which the actual testing is conducted, or other appropriate and effective methods, to preclude any examinee from viewing another candidate's examinations;

(3) acoustics that allow each examinee to hear instructions clearly, using an electronic audio system if necessary;

(4) adequate lighting at each examinee's work space for reading fine print; and

(5) appropriate ventilation and temperature for the health and comfort of examinees.

(o) Department examination administration. Examination administrators shall implement and maintain the following examination administration procedures for a program utilizing the department examination.

(1) Security procedures shall be in place which protect the examination from compromise at all times. The examinations shall be stored and administered under secure conditions and shall be inventoried prior to and immediately following each administration of an examination. The examination may not be duplicated. Candidates shall have access to the examination only during examination administration.

(2) There shall be one proctor for every 35 candidates taking the examination. Proctors shall, by picture identification, confirm the accurate identity of each candidate. The examination administrator shall train and supervise the activities of any proctor(s).

(3) A candidate who speaks English as a second language may use a translation dictionary to translate English into their native language.

(4) An employee or a non-biased volunteer translator may be used as a translator of languages other than English to administer the examination orally. Translators shall be pre-approved by the examination administrator, and shall not compromise the integrity of the examination or the examination results of the candidate.

(5) Each candidate's examination results and personal information shall be held confidential. Such information may be made available only to the examinee and to persons designated in writing by the examinee in a dated document containing the examinee's original signature. The signed document must specify the name(s) of specific individuals the information may be released to and the exact information which may be provided. The department shall only release information in writing and only to appropriately designated and identified person(s).

(6) All completed answer sheets for the department examinations shall:

(A) be submitted by traceable means, and received by the department within seven working days of the examination date for grading and processing;

(B) be submitted in a condition acceptable for immediate scanning. Forms requiring extensive correction shall be returned to the examination administrator ungraded; and

(7) Only the department shall grade the department examination.

(p) Required fees. All fees are payable to the Department of State Health Services and are non-refundable. Fees must be submitted with the appropriate form that relates to the fee category. A current license shall only be issued when all past due fees and late fees are paid for all years of operation in Texas. The fees shall be:

(1) Certified food manager program license fee for initial, renewal, or change of ownership. A program fee shall be \$600 for a two-year license for each certification or recertification program.

(2) Certified food manager program amended license fee. Program amendment fees shall be \$300 for each certification or recertification program.

(3) Examination packet fee. The fee for the department examination shall be \$25 and shall include a manager's certificate valid for five years if the candidate passes the examination. If the candidate fails the department examination, another candidate fee must be submitted to retake the examination.

(4) Two-year renewal certificate fee. The fee for renewal of a two-year certificate issued shall be \$10.

(5) Replacement certificate. A replacement certificate fee for the department examination shall be \$15.

(6) Late fee. Certified food manager licensees submitting a completed renewal application to the department after the expiration date shall pay an additional \$100 as a late fee.

(7) Texas Online Authority fee. For all applications and renewal applications, the department is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.

(q) Department examination related to late fees. Department examinations will not be provided to any licensee that is over 30 days delinquent in renewing a certified food management program license.

(r) Certified food management program registry. The department shall maintain a program registry of all accredited certification and recertification programs. The registry shall be made available on the department website.

(s) Department audits. Examination and classroom audits may be conducted to assess program compliance. Licensee shall allow personnel authorized by the department access for the purposes of an audit. Audits may be based on analysis of data compiled by the department.

(t) Denial, suspension and revocation of program accreditation. An accredited food manager program license may be denied, suspended or revoked for the following reasons:

- (1) a licensee, examination administrator or proctor breaches the security agreement;
- (2) a licensee is delinquent in payment of fees as described in this section; or
- (3) violation of the provisions of this section.

(u) Denial, suspension and revocation procedures. Denial, suspension and revocation procedures under this section shall be conducted in accordance with the Administrative Procedure Act, Government Code, Chapter 2001.

(v) Suspension of License Relating to Child Support and Child Custody.

(1) On receipt of a final court order or attorney general's order suspending a license due to failure to pay child support or for failure to comply with the terms of a court order providing for the possession of or access to a child, the department shall immediately determine if a license has been issued to the obligator named and:

- (A) record the suspension of the license in the department's records;
- (B) report the suspension as appropriate; and
- (C) demand surrender of the suspended license.

(2) The department shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The board will provide notice as appropriate to the licensee or to others concerned with the license.

(3) The department may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Family Code, Chapter 232, and may not review, vacate, or reconsider the terms of an order.

(4) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the department.

(5) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and

this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.

The provisions of this §229.172 adopted to be effective July 7, 2002, 27 TexReg 5783; amended to be effective May 6, 2004, 29 TexReg 4175; amended to be effective April 24, 2008, 33 TexReg 3278





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